

IN THE APPELLATE Court of South Carolina

BLACK HORSE RUN POA

PLAINTIFF- APPELLEE

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JUL 05 2024

SC Court of Appeals

VS.

ALEXIS BENSON

DEFENDANT- APPELLANT

**ON APPEAL FROM THE Court of Common Pleas,
LANCASTER COUNTY, SOUTH CAROLINA**

CASE NO. 2023-CP-2900628

Amended
Notice of Appeal by Alexis Benson

June 7th, 2024

Amended June 30th, 2024

On May 20th and 21st a Jury Trial should have taken place in the Court of Common Pleas, Lancaster County, SC with Plaintiffs Black Horse run Property Owners Association and the defendant, Alexis Benson. Despite the Jury being selected and hearing the case, they were never given the opportunity to render a verdict. The Judgement is Attached as Exhibit A. This Judgment was received by Ms Carberry Benson via non-certified mail from the Court on 6/6/2024. The following were errors by the Court:

1. The Court erred by not awarding Summary Judgement or a Motion to Dismiss in favor of the Defendant as there was no case against the defendant and the animal in question is a Emotional Support Animal under Section 504, FHA and ADA:

- a. Section 504

Unlike the Fair Housing Act, Section 504 does not distinguish between reasonable accommodations and reasonable modifications. Instead, both are captured by the term "reasonable accommodations". Under Section 504, the requirement to make reasonable accommodations applies to any changes that may be necessary to provide equal opportunity to participate in any federally-assisted program or activity. This includes a change, adaptation or modification to a policy, program, service, facility, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, live in housing, or perform a job.

Reasonable accommodations may include changes which may be necessary in order for the person with a disability to use and enjoy a dwelling, including public and common use spaces, or participate in the federally-assisted program or activity. In addition to the statutory requirement to make reasonable accommodations under Section 504, HUD's Section 504 regulation provides for making "housing adjustments" at 24 C.F.R. § 8.33.

- b. Americans with Disabilities Act (ADA)

Similar to and based upon the Section 504 reasonable accommodation requirement, Titles II and III of the ADA require public entities and public accommodations to make reasonable modifications to policies, practices, or procedures to avoid discrimination. This obligation applies unless the public entity can demonstrate that the modifications would fundamentally alter the nature of its service, program, or activity (Title II), or the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations (Title III).

c. The Fair Housing Act (FHA) (42 U.S. Code § § 3601-3619 and 3631)

FHA protects tenants and home owners against housing discrimination. As a federal law, the FHA applies across the country, including all 50 states and Washington, D.C., as well as all U.S. territories and possessions. The emotional Support animal, or ESA Statute, includes ALL ANIMALS with a Document from a Licensed Professional indicating so.

2. The Court Erred by not allowing Medical Documentation into the record including but not limited to the ESA letter, the Child Comprehensive Psychological Report and a ESA certificate for the animal in question.

a. Rule 803. Exceptions to the Rule Against Hearsay.

(3) Then-Existing Mental, Emotional, or Physical Condition. A statement of the declarant's then-existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.

(4) Statement Made for Medical Diagnosis or Treatment. A statement that:

(A) is made for — and is reasonably pertinent to — medical diagnosis or treatment; and

(B) describes medical history; past or present symptoms or sensations; their inception; or their general cause.

(6) Records of a Regularly Conducted Activity. A record of an act, event, condition, opinion, or diagnosis if:

(A) the record was made at or near the time by — or from information transmitted by — someone with knowledge;

(B) the record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;

(C) making the record was a regular practice of that activity;

3. The Court Erred by Denying the Defendant's Constitutional right to a Jury Trial by not allowing the case to be decided by the Jury Trial, Fifth and Fourteenth Amendment.

The Constitution contains two due process clauses: a clause in the Fifth Amendment that applies to the federal government and a clause in the Fourteenth Amendment that applies to the states. The traditional definition of "due process" is that the government cannot take away life, liberty, or property from any person without a legal proceeding.

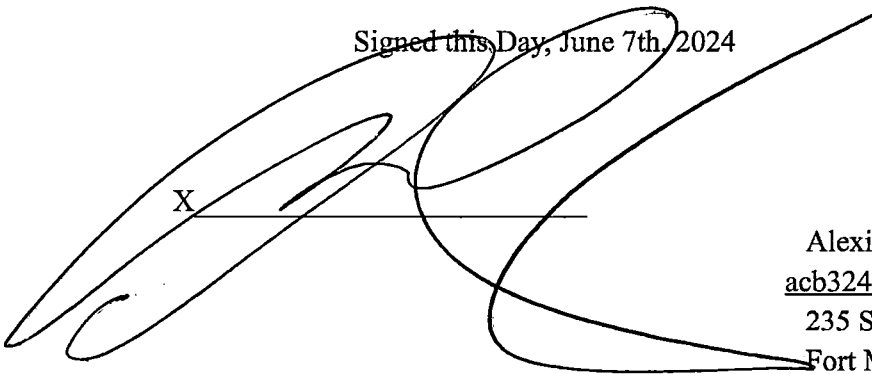
The Due Process Clause in the Fourteenth Amendment incorporates nearly all of the rights provided by the Bill of Rights, which consists of the first 10 amendments to the Constitution. These rights initially protected individuals only against federal government

actions, while state governments were constrained by state constitutions. Supreme Court Case Law has determined that the Due Process Clause incorporates the Bill of Rights. State and local governments must not infringe on them.

In Conclusion the Defendant requests the Fourth Circuit of Appeals of the United States of America, Richmond Virginia to accept this appeal as it deals with federal law. IT IS THE INTEREST OF THE UNITED STATES because it has a direct interest which serves a vulnerable population of individuals with disabilities. Public interest is Served when it carries out the intent of Congress in adopting the FHA, Section 504 and ADA.

There is no doubt that protecting against violations of federal laws serves to keep the scales of Justice balanced and society functioning at an optimal level. The purpose of the Section 504 and ADA, is served and aimed to prevent further discrimination and civil rights violations against, specifically, an individual with a disability. Individual accountability AND governmental responsibility and enforcement are essential in keeping Liberty, Freedom and Justice for all.

Signed this Day, June 7th, 2024



X

Alexis Carberry Benson
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235 Straightaway lane
Fort Mill, SC 29707

In the South Carolina)
Appellate Court)
Black Horse Run POA)
Plaintiff)
v)
Alexis Carberry Benson)
Defendant)

case no. _____

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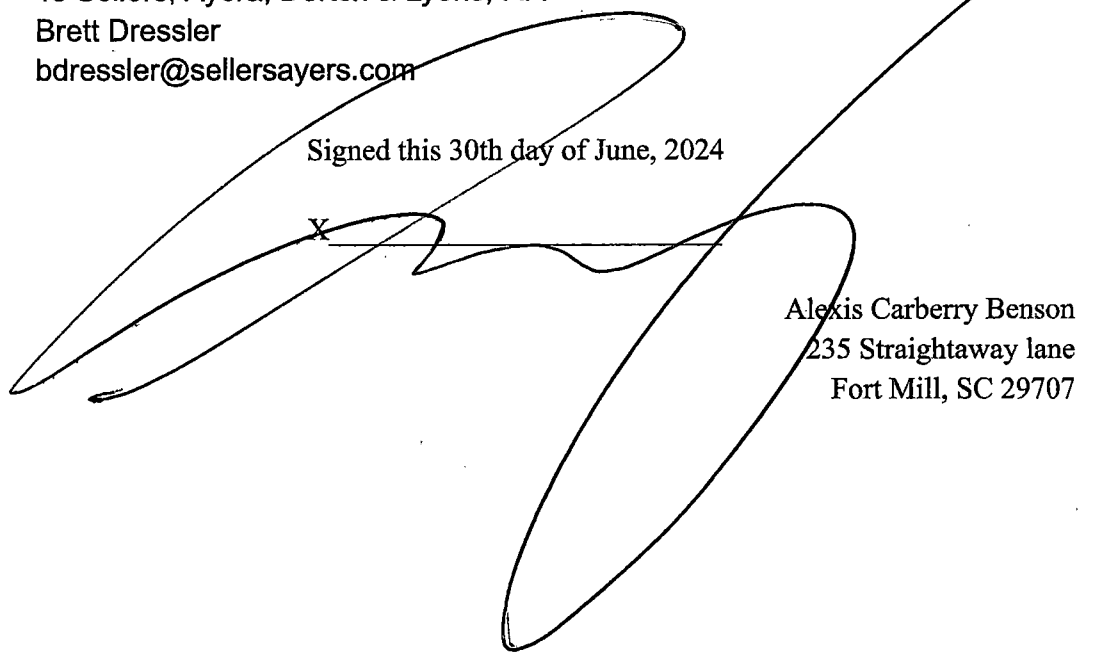
I HEREBY CERTIFY that a true and correct copy of :

Notice of Appeal

Was served upon the following by certified mail, 6/30/24

To Sellers, Ayera, Dortch & Lyons, P.A
Brett Dressler
bdressler@sellersayers.com

Signed this 30th day of June, 2024



Alexis Carberry Benson
235 Straightaway lane
Fort Mill, SC 29707



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